§ 440.11 Duration of coverage for licensed launch, including suborbital launch, or permitted activities; modifications.

(a) Insurance coverage required under § 440.9, or other form of financial responsibility, shall attach when a licensed launch or permitted activity starts, and remain in full force and effect as follows:

(1) Until completion of licensed launch or permitted activities at a launch or reentry site; and

(2) For orbital launch, until the later of—

(i) Thirty days following payload separation, or attempted payload separation in the event of a payload separation anomaly; or

(ii) Thirty days from ignition of the launch vehicle.

(3) For a suborbital launch, until the later of—

(i) Motor impact and payload recovery; or

(ii) The FAA's determination that risk to third parties and Government property as a result of licensed launch or permitted activities is sufficiently small that financial responsibility is no longer necessary. That determination is made through the risk analysis conducted before the launch to determine MPL and specified in a license or permit order.

(b) Financial responsibility required under this part may not be replaced, canceled, changed, withdrawn, or in any way modified to reduce the limits of liability or the extent of coverage, nor expire by its own terms, prior to the time specified in a license or permit order, unless the FAA is notified at least 30 days in advance and expressly approves the modification.

§ 440.12 Duration of coverage for licensed reentry; modifications.

(a) For reentry, insurance coverage required under § 440.9, or other form of financial responsibility, shall attach upon commencement of licensed reentry, and remain in full force and effect as follows:

(1) For ground operations, until completion of licensed reentry at the reentry site; and

(2) For other licensed reentry activities, 30 days from initiation of reentry flight; however, in the event of an abort that results in the reentry vehicle remaining on orbit, insurance shall remain in place until the FAA's determination that risk to third parties and Government property as a result of licensed reentry is sufficiently small that financial responsibility is no longer necessary, as determined by the FAA through the risk analysis conducted to determine MPL and specified in a license order.

(b) Financial responsibility required under this part may not be replaced, canceled, changed, withdrawn, or in any way modified to reduce the limits of liability or the extent of coverage, nor expire by its own terms, prior to the time specified in a license order, unless the FAA is notified at least 30 days in advance and expressly approves the modification.

§ 440.13 Standard conditions of insurance coverage.

(a) Insurance obtained under § 440.9 must comply with each of the following terms and conditions of coverage:

(1) Bankruptcy or insolvency of an insured, including any additional insured, shall not relieve an insurer of any of its obligations under any policy.

(2) Policy limits shall apply separately to each occurrence and, for each occurrence to the total of claims arising out of a licensed or permitted activity in connection with any particular launch or reentry.

(3) Except as provided in this section, each policy must pay claims from the first dollar of loss, without regard to any deductible, to the limits of the policy. A licensee or permittee may obtain a policy containing a deductible amount if the amount of the deductible is placed in an escrow account or otherwise demonstrated to be unobligated, unencumbered funds of the licensee or permittee, available to compensate claims at any time claims may arise.

(4) No policy may be invalidated by any action or inaction of the licensee or permittee or any additional insured, even by nonpayment by the licensee or permittee of the policy premium, and each policy must insure the licensee or permittee and each additional insured regardless of any breach or violation of

any warranties, declarations, or conditions contained in the policies by the licensee or permittee or any additional insured (other than a breach or violation by the licensee, permittee or an additional insured, and then only as against that licensee, permittee or additional insured).

(5) Each exclusion from coverage must be specified.

(6) Insurance shall be primary without right of contribution from any other insurance that is carried by the licensee or permittee or any additional insured.

(7) Each policy must expressly provide that all of its provisions, except the policy limits, operate in the same manner as if there were a separate policy with and covering the licensee or permittee and each additional insured.

(8) Each policy must be placed with an insurer of recognized reputation and responsibility that either:

(i) Is licensed to do business in any State, territory, possession of the United States, or the District of Columbia; or

(ii) Includes in each of its policies or insurance obtained under this part a contract clause in which the insurer agrees to submit to the jurisdiction of a court of competent jurisdiction within the United States and designates an authorized agent within the United States for service of legal process on the insurer.

(9) Except as to claims resulting from the willful misconduct of the United States or any of its agents, the insurer shall waive any and all rights of subrogation against each of the parties protected by required insurance.

(b) [Reserved]

§ 440.15 Demonstration of compliance.

(a) A licensee or permittee must submit to the FAA evidence of financial responsibility and compliance with allocation of risk requirements under this part, as follows, unless a license or permit order specifies otherwise due to the proximity of the intended date for commencement of licensed or permitted activities:

(1) All reciprocal waiver of claims agreements required under § 440.17(c) must be submitted at least 30 days before the start of any licensed or permitted activity involving a customer, crew member, or space flight participant;

(2) Evidence of insurance must be submitted at least 30 days before commencement of any licensed launch or permitted activity, and for licensed reentry no less than 30 days before commencement of launch activities involving the reentry licensee;

(3) Evidence of financial responsibility in a form other than insurance, as provided under § 440.9(f), must be submitted at least 60 days before commencement of a licensed or permitted activity; and

(4) Evidence of renewal of insurance or other form of financial responsibility must be submitted at least 30 days in advance of its expiration date.

(b) Upon a complete demonstration of compliance with financial responsibility and allocation of risk requirements under this part, the requirements of this part shall preempt each and any provision in any agreement between the licensee or permittee and an agency of the United States governing access to or use of United States launch or reentry property or launch or reentry services for a licensed or permitted activity which addresses financial responsibility, allocation of risk and related matters covered by 51 U.S.C. 50914, 50915.

(c) A licensee or permittee must demonstrate compliance as follows:

(1) The licensee or permittee must provide proof of the existence of the insurance required by § 440.9 by:

(i) Certifying to the FAA that it has obtained insurance in compliance with the requirements of this part and any applicable license or permit order;

(ii) Filing with the FAA one or more certificates of insurance evidencing insurance coverage by one or more insurers under a currently effective and properly endorsed policy or policies of insurance, applicable to a licensed or permitted activity, on terms and conditions and in amounts prescribed under this part, and specifying policy exclusions;

(iii) In the event of any policy exclusions or limitations of coverage that may be considered usual under § 440.19(c), or for purposes of implementing the Government's waiver of